

# Wisconsin Human Resources Handbook

## Chapter 800

### Equal Employment Opportunity (EEO) Programs and Affirmative Action (AA) Planning Standards

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***Attachments also available in WORD/EXCEL-format on OSER's DAA website for agencies to use to conduct their own statistical analysis and/or to craft their own policies and AA Plans.***

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#### Sec. 800.010 Introduction

The purpose of this chapter is to provide the compliance standards by which agency Equal Employment Opportunity (EEO) programs are to be built and managed, and Affirmative Action (AA) plans are to be produced and implemented. The concepts and policies of Equal Employment Opportunity and Affirmative Action are also explained in HR Handbook 808.

**Equal Employment Opportunity (EEO)** policies and programs exist nationally to ensure equal access and equal treatment for every applicant and employee throughout all agency employment practices such as: position description development; recruitment; examination; selection; salary and wages; merit; training; transfer; promotion; reclassification; leave; acting on temporary assignment; disciplinary action; layoff; restoration; reinstatement; retention; etc.

EEO policies and programs were established according to federal and state laws to prohibit discrimination and unequal treatment against any applicant or employee based on, but not limited to: the person's race, ethnicity, color, national origin, ancestry, gender, age, disability, religion, creed, marital status, sexual orientation, political affiliation, membership in the armed forces.

**Affirmative Action Programs** are recruitment and hiring efforts which assist agency workforces to mirror the overall labor pool of qualified candidates from which it draws its applicants. These recruitment and hiring efforts target qualified members of the labor pool who have historically been discriminated against because of race, gender or disability-status. There is a growing recognition that a diverse workforce is good business, and adds a variety of backgrounds, ideas and viewpoints which increase the overall quality of work performed. A diverse, representative workforce in state government should be reflective of the people it serves.

**Affirmative Action (AA) Plans** are the outline of specific, pro-active programs and steps to be taken over a pre-determined period of time to increase the access of historically underrepresented qualified applicants to an agency's workforce. AA Plans may also contain specific action steps to address problems that arise in an agency's Equal Employment Opportunity program. The planning cycle for AA Plans covers three-year time periods unless otherwise extended by OSER.

## **Sec. 800.020 Statutory and Rule Authority**

There are several Wisconsin administrative codes and state statutes that direct action items for the Director of OSER regarding EEO/AA. OSER complies with these directives by requiring information, reports, AA plans and EEO certification from agencies. The following are excerpts from these administrative codes and statutes specific to EEO and AA.

### **Wisconsin Administrative Code ER 43**

#### **ER 43.01**

**Policy.** It is the policy of this state to ensure equal opportunity without regard to age, race, creed or religion, color, handicap, sex, marital status, national origin or ancestry, political affiliation, arrest or conviction record, or sexual orientation. In furtherance of this policy, all persons responsible for employment decisions shall, within the scope of their assigned responsibilities:

- (1) Exercise administrative authority and personal leadership to prohibit, prevent and eradicate every form of discrimination from the agency's policies, practices and working conditions.
- (2) Take affirmative action as defined in s. 230.03 (2), Stats. For purposes of this subsection, elected state officials are not considered a similar functional group in the unclassified service.
- (3) Integrate equal opportunity and affirmative action concerns into the agency personnel management system under their control.
- (4) Develop and implement innovative personnel management procedures to aid in the achievement of affirmative action goals.

#### **ER 43.03**

**Affirmative action plans.** Each agency shall prepare and file with the director an affirmative action and equal opportunity plan which shall be developed in accordance with standards and time schedules established by the director and include the following minimum components:

- (1) A policy statement which affirms the commitment of the appointing authority to ensure equal opportunity, freedom from discrimination, and affirmative action in compliance with state policy and state and federal laws.
- (2) An analysis of the agency work force to determine if there are substantial disparities between the proportion of any affirmative action groups in either a classified civil service classification, grouping of classifications or similar functional group in the unclassified service, in the agency work force and the rate of that group's representation in that part of the state labor force qualified for employment in such classification, progression series or functional group in the relevant labor pool.
- (3) Goals and timetables to correct disparities identified in sub. (2).
- (4) The establishment of goals and objectives for affirmative action programs designed to achieve equal opportunity, eliminate discrimination and attain the goals and timetables identified in sub. (3).
- (5) Description of a system and timetable for regularly monitoring the effectiveness and progress of the agency in meeting the plan objectives.

#### **ER 43.04**

**Review of plans.** The director shall review all agency affirmative action and equal opportunity plans for compliance with the standards established under s. ER 43.03. In addition the director shall:

- (1) Provide the governor with a list of approved or disapproved plans and notice that the plans and any comments regarding them are available for review.

(2) Determine compliance with the standards established under s. ER 43.03 of agency plans which were previously developed to comply with federal law or to meet standards established by the board of regents of the university of Wisconsin system.

#### **ER 43.045**

**Program, policy and procedures standards.** In addition to the plans described in s. ER 43.03, the director may establish standards for agency affirmative action and equal opportunity programs, policies, and procedures designed to comply with state and federal affirmative action and equal employment opportunity laws and policies.

#### **ER 43.05**

**Monitoring and compliance.** On an ongoing basis, the director shall monitor and evaluate each agency's progress toward affirmative action and equal opportunity goals and objectives in implementing the policy of the state and shall make specific recommendations regarding methods through which the respective agencies may improve their efforts in providing equal opportunity to employees, applicants for employment and clients of the agency. If an agency fails to make reasonable efforts to meet goals and objectives and comply with the standards established under ss. ER 43.03 and 43.045, the director may take necessary steps under s. 230.04, Stats., to ensure compliance.

#### **ER 43.06**

**Request for information.** Upon request of the director, the appointing authority shall provide information concerning applicants, employees and clients. Confidentiality of information shall be maintained by the director as provided under state and federal law.

#### **ER 43.07**

**Reporting systems.** Appointing authorities shall comply with standards and procedures for reporting systems established by the director to acquire affirmative action information. If an agency has established reporting systems in compliance with federal law, such systems shall be reviewed by the director for acceptability.

### **Wisconsin State Statute, Chapter 230**

#### **230.04 Powers and duties of the director.**

(9) The director shall do all of the following:

- (a) Establish standards for affirmative action plans to be prepared by all agencies and applied to all employees in and applicants for employment in the unclassified and classified services, except for state officers elected by the people. The standards shall state the time periods within which these plans shall be prepared.
- (b) Review and approve or disapprove any affirmative action plan prepared by an agency to ensure compliance with the standards established under par. (a), and send any approved affirmative action plan to the governor with comments.
- (c) Monitor, evaluate and make recommendations to each agency to improve its progress toward providing equal opportunity to employees, applicants for employment and clients of the agency.
- (d) Provide each agency with technical assistance in exploring and implementing innovative personnel policies in compliance with standards established under par. (a).
- (e) Annually, prepare and submit to the governor and the legislature a summary of existing agency affirmative action program accomplishments, including the information obtained from agencies under sub. (10) (b), future goals and recommended actions.
- (em) Annually, prepare and submit to the governor and the legislature a summary of the progress being made to provide employment opportunities in civil service for veterans under this chapter, including the information obtained from agencies under sub. (10) (c).

(f) Establish an affirmative action subunit. The affirmative action subunit shall advise and assist the director, the administrator and agency heads on establishing policies and programs to ensure appropriate affirmative action. The subunit shall advise and assist the director in monitoring such programs and shall provide staff to the council on affirmative action.

### Sec. 800.030 Definitions

1. **Affirmative action** means specific actions in employment which are designed and taken for the purposes of all of the following:
  - (a) Ensuring equal opportunities.
  - (b) Eliminating a substantial disparity between the proportion of members of racial and ethnic, gender or disabled groups either in job groups within the classified civil service, or in similar functional groups in the unclassified service, and the proportion of members of racial and ethnic, gender or disabled groups in the relevant labor pool.
  - (c) Eliminating present effects of past discrimination. Wis.Stat. 230.03(2)
2. **Affirmative action group** means one or more of the following:
  - (a) Racial or ethnic groups.
  - (b) Gender groups.
  - (c) Handicapped groups. ER 43.02(2)
3. **Affirmative action program** means specific results oriented standards, procedures and initiatives designed to ensure equal employment opportunity and to eliminate present effects of past discrimination. ER 43.02(2m)
4. **Agency** means any board, commission, committee, council, or department in state government or a unit thereof created by the constitution or statutes if such board, commission, committee, council, department, unit, or the head thereof, is authorized to appoint subordinate staff by the constitution or statute, except a legislative or judicial board, commission, committee, council, department, or unit thereof or an authority created under subch. [II of ch. 114](#) or subch. [III of ch. 149](#) or under ch. [231](#), [232](#), [233](#), [234](#), [237](#), [238](#), or [279](#). "Agency" does not mean any local unit of government or body within one or more local units of government that is created by law or by action of one or more local units of government. Wis.Stat. 230.03(3)
5. **Appointing authority** means the chief administrative officer of an agency unless another person is authorized to appoint subordinate staff in the agency by the constitution or statutes. Wis.Stat. 230.03(4)
6. **Client** means any individual or organization receiving services or financial assistance from an agency. ER 43.02(4)
7. **Director** means the director of the office of state employment relations. Wis.Stat. 230.03(9e)
8. **Equal opportunity** means the absence of discrimination in employment or in provision of services to clients. ER 43.02(5)
9. **Handicapped** groups mean individuals who:
  - (a) Have a physical or mental impairment which makes achievement unusually difficult or limits the capacity to work;
  - (b) Have a record of such an impairment; or
  - (c) Are perceived as having such an impairment. ER 43.02(5m)
10. **Office** means the office of state employment relations. Wis.Stat. 230.03(10w)

11. **Racial or Ethnic Groups** mean American Indians or Alaskan Natives, Asians or Pacific Islanders, Blacks, and Hispanics defined as follows:

- (a) American Indians or Alaskan Natives mean persons descended from any of the original peoples of North America who possess 1/4 degree of documented tribal descendancy, or are enrolled with a federally or state recognized tribe, or are recognized by a federally or state recognized tribe as American Indians for state affirmative action purposes.
- (b) Asians or Pacific Islanders mean persons descended from any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands.
- (c) Blacks mean persons descended from any of the Black racial groups of Africa.
- (d) Hispanics mean persons of Chicano, Mexican, Puerto Rican, Cuban, Central American or South American culture or origin, regardless of race. Wis.Stat. 230.02(6m)(a-d)

12. **Sexual orientation** means a preference as defined in s. [111.32 \(13m\)](#), Stats. ER 43.02(7)

**Sexual orientation** means having a preference for heterosexuality, homosexuality or bisexuality, having a history of such a preference or being identified with such a preference. Wis.Stat. 111.32(13m)

## Sec. 800.040 Equal Employment Opportunity (EEO) Policies and Programs

EEO POLICIES	
General Policy Statement	Equal Employment Opportunity (EEO) policies and programs exist nationally to ensure equal access and equal treatment for every applicant and employee throughout all agency employment practices such as the following: position description development; recruitment; examination; selection; salary and wages; merit; training; transfer; promotion; reclassification; leave; acting on temporary assignment; disciplinary action; layoff; restoration; reinstatement; retention; etc.
Balanced Interview Panel Policy	
Reasonable Accommodation Policy	EEO policies were established according to federal and state laws to prohibit discrimination and unequal treatment against any applicant or employee based on, but not limited to the following: the person's race, ethnicity, color, national origin, ancestry, gender, age, disability, religion, creed, marital status, sexual orientation, political affiliation, membership in the armed forces.
Harassment Policy	
Internal Complaints Policy and Procedure	

### EEO programs consist of five essential policies:

#### 1. EEO/AA Policy Statement

This statement is an overview of the various EEO/AA policies followed by a particular agency. The statement covers the agency's commitment to providing equal opportunity for all persons, and it summarizes the efforts that will be taken to address any EEO violations. (*Policy statement requirements included in next section 800.050*)

#### 2. Balanced Interview Panel Policy

The purpose of this policy is to notify agency hiring units to incorporate a balanced and diverse perspective when evaluating job candidates. It covers the type of employees who should serve on a balanced panel and outlines the AA Officer's responsibilities in overseeing the process.

3. **Reasonable Accommodation Policy and Procedures**

This policy outlines the steps needed to provide an accommodation to an employee with a disability. It provides the definitions of the following: reasonable accommodation; disability; and undue hardship. It also discusses the decision-making process when handling a reasonable accommodation request.

4. **Harassment Policy Statement**

This statement defines the various forms of harassment and reiterates an agency's resolve to prevent it. The statement must contain language stating the agency prohibits all forms of harassment.

5. **Internal Discrimination and Harassment Complaints Policy and Procedures**

This policy outlines the procedures agency employees will follow when they have experienced discrimination or harassment. It identifies the contact person who oversees the handling of complaints.

**(Samples of each policy are provided in Attachment # 1)**

**Note:** These samples are composites of various policies. They are intended as guides for agencies in developing their own policies, and should be modified as needed to meet specific policies and structures. These samples are not legal advice. If legal advice is required, a competent professional should be contacted.

**(WORD-format samples are available on OSER's DAA website for agencies to craft their own policies.)**

**Sec. 800.050 EEO/AA Policy Statement Requirements**

An agency's policy statement on equal employment opportunity and affirmative action shall include language containing the following elements:

1. A commitment to equal employment opportunity for all persons, regardless of race, creed, ancestry, religion, color, gender, national origin, age, disability, arrest or conviction record, marital status, political affiliation, sexual orientation or membership in the armed forces.
2. Affirmative action efforts for women, racial/ethnic minorities and persons with disabilities will be undertaken to ensure equal opportunity and to overcome the present effects of past discrimination.
3. Equal employment opportunity/affirmative action principles will affect all employment practices including, but not limited to the following: recruiting, interviewing, hiring, transfers, promotions, training, compensation, benefits, layoffs, terminations, retention, certification, and testing.
4. Responsibility for the equal employment opportunity/affirmative action program is assigned to a major agency executive.  
**(NOTE:** The policy should include the name and job title of the EEO/AA Officer.) All management personnel share in its responsibility and will be assigned specific tasks. EEO/AA progress will be monitored, and management performance in this program will be evaluated just as management performance is evaluated in other agency goals.
5. Harassment by supervisors or co-workers on the basis of race, gender, national origin, age, disability, or other protected status is an unlawful employment practice prohibited by State and Federal law and the Department. Harassment on the basis of any protected status in service delivery is also prohibited by the Department. The agency's policy must include a statement that every effort will be made to prevent and eliminate any form of prohibited harassment.

6. Procedures are available to handle complaints alleging discrimination and/or harassment. The policy statement must give information regarding where these procedures are published, and must identify the contact person.

**NOTE:** Procedures must include a provision for the complainant to bypass the immediate supervisor if the supervisor is involved in the alleged discrimination or harassment.

7. Retaliation against an employee who files a discrimination complaint is also a form of discrimination which is against the law and will not be tolerated by the agency.
8. Reasonable accommodations for persons with disabilities are provided to ensure equal access to employment and all benefits associated with employment.
9. In response to an employee's request, reasonable accommodations are provided for religious practices.

This policy statement must be signed by the current chief executive of the agency, and must be reissued and signed whenever the chief executive changes or there is a change in the content of the policy.

## EEO PROGRAM CERTIFICATION (Wisconsin)

1.The Five Major EEO Policies

2.AA Officer Reports to the Appointing Authority

3.Hiring Review Process for Underutilized Positions

4. Agencies with 50 or more employees establish and maintain an Affirmative Action Advisory Committee (AAAC)

5.Self-Identification Surveys to aid in providing Reasonable Accommodations

6. Dissemination of all EEO Policies to Employees

### **Sec. 800.060 Equal Employment Opportunity (EEO) Program Certification (Wisconsin)**

In order to achieve statewide consistency in equal employment opportunity (EEO) programs, all Wisconsin agencies must meet (6) eligibility criteria to attain EEO Program Certification.

Agencies that achieve certification will receive **Certification Letters** from the OSER Director. Secretaries of agencies yet to achieve certification will be contacted by the OSER Director.

#### **The six criteria for EEO Program Certification in Wisconsin are as follows:**

##### **I. Develop the Five Essential EEO Policies.** (see Sec. 800.040)

**REQUIRED DOCUMENTATION:** A letter *signed jointly by the HR Director and the AAO* stating that these policies are currently in force, *along with copies of the policies*. If there are no changes to the five policies since the last certification, a signed statement to that effect will suffice. If there are changes, updated policies should be submitted to OSER/DAA.

##### **II. The Affirmative Action Officer (AAO) reports directly to the agency's appointing authority.**

Wis.Stat. 230.06(1)(k):

(1) An appointing authority shall:

...

(k) Designate an affirmative action officer reporting directly to the appointing authority. The affirmative action officer shall advise and assist the appointing authority in establishing programs to ensure appropriate affirmative action.

The AAO who is designated with the responsibility of directing affirmative action, equal opportunity or diversity initiatives within an agency must report directly to the Appointing Authority. Except as provided in s. 230.80(1m), Wis. Stats., the appointing authority is defined as the chief administrative officer of an agency unless another person is authorized to appoint subordinate staff in the agency by the constitution or statutes. S. 230.03(4), Wis. Stats.

Note that reporting to the appointing authority does not necessarily require that the AAO receives day to day supervision from the appointing authority. The AAO may be supervised by other management staff for administrative purposes.

**REQUIRED DOCUMENTATION:** A letter signed by the appointing authority which identifies who the AAO is and states that the AAO reports directly to him/her for EEO/AA purposes.

### **III. Complete a Hiring Review Process for all Classifications**

Agencies shall maintain a hiring review process for filling all positions. The purpose of this review is to ensure that the AAO is actively involved in all phases of the hiring process. The AAO's role is to make sure that the process is fair, equitable and that appropriate measures are being undertaken for all positions. The goal of this process is to develop a workforce that mirrors the overall labor pool of qualified candidates from which it draws its applicants. A diverse workforce is good business, and adds a variety of backgrounds, ideas and viewpoints which increase the overall quality of work performed.

The AAO should oversee the efforts of affirmative action to attain a diverse workforce, including reviewing a strategic recruitment activity plan for targeted outreach, reviewing the proposed interview questions and evaluation benchmarks, assisting with a balanced interview panel, and participating in the final selection decision.

In addition, agencies should use a standard tracking device to document and monitor the hiring review process, such as a Hiring Review Checklist or a similar agency form. (*See Attachment #2 – Sample Hiring Review Checklist*). The agency's hiring review process will be monitored during agency on-site visits conducted by OSER's Division of Affirmative Action.

In the Hiring Review Checklist or a similar agency form, the following steps in the hiring process should be included:

#### **Step 1. HR Contacts AAO or AAO-Approved Designee to Discuss AA/EEO Options for Recruitment**

When an agency plans to fill a vacancy in an underutilized job group, human resources staff (HR) should inform the agency affirmative action officer (AAO) or AAO-approved designee about this recruitment opportunity.

#### **Step 2. AAO's Involvement in the Recruitment Activity Plan (RAP)**

The AAO or AAO-approved designee will work with the supervisor and HR for strategizing an effective recruitment activity plan (RAP) to broadcast the opportunity and improve the recruitment pool of affirmative action targeted group members. The AAO will have final approval of the RAP.

#### **Step 3. HR's Notification to All Staff Involved in the Hiring Process About AA Goals**

All agency staff involved in the hiring process must be informed in writing when there is an affirmative action goal for racial/ethnic minorities, women or both.



#### **Step 4. Review of Proposed Interview Questions and Evaluation Benchmarks**

The AAO or AAO-approved designee must review the proposed interview questions and evaluation benchmarks to minimize bias and discriminatory effects based on race/ethnicity, gender or cultural differences.

#### **Step 5. Approval of Balanced Interview/ Evaluation Panels**

Each agency shall make a good faith effort to include racial/ethnic minorities, women, and persons with disabilities on oral boards, interview panels, search and screen committees, and exam rating panels. Balanced panels serve to enhance the objective discussion of the qualifications of all candidates and promote equal opportunity for all. The AAO is expected to work with the hiring manager in order to obtain a balanced interview panel.

#### **Step 6. Briefing Interview Panel on EEO/AA Objectives**

Prior to the start of the selection interviews, the AAO or AAO-approved designee will discuss the EEO/AA objective relative to the hiring decision with the selection interview panel, unless the interview panel members were part of the group that formulated the selection interview questions and were previously briefed.

#### **Step 7. AAO's Participation of the Final Selection Process**

The AAO shall review the final selection process and, if necessary, participate in the discussion of the final hiring decision with the appointing authority. Anytime there is an affirmative action goal and an AA group candidate (woman and racial/ethnic minority) is certified or eligible (due to reinstatement, transfer, layoff, restoration, etc.) for consideration for an appointment but not recommended for hire, a hiring justification providing detailed, job-related information for recommending the selected candidate over the other applicants (i.e. number of years in profession; years of experience; past relevant experience; etc.) must be approved by the AAO.

If there are questions, the AAO will discuss with the hiring authority.

If there are disagreements, the AAO will discuss with the agency's appointing authority.

\* When a transfer is made for filling the underutilized position, there will be no requirement for the AAO's involvement. However HR should inform the AAO of such action.

A Hiring Review Checklist has been included in this chapter to document and monitor the process. (*See Attachment #2 – Sample Hiring Review Checklist*)

**REQUIRED DOCUMENTATION:** A letter jointly signed by the HR Director and the AAO detailing the agency's current hiring review process and verifying that it follows the EEO/AA policy and documentation requirements. A Hiring Review Checklist or a similar form currently in use by the agency should be attached to the letter.

#### **IV. Agencies with 50 or more Employees will Establish and Maintain a Fully Functioning Affirmative Action Advisory Committee (AAAC).**

Wis.Stat. 230.06(1)(j):

(1) An appointing authority shall:

...

(j) If his or her agency employs 50 or more employees, create an affirmative action advisory committee which shall advise the appointing authority concerning programs designed to ensure equal opportunity to all employees, applicants for employment and clients of the agency.

This committee will have an organized structure, meet on a regular basis and advise the appointing authority on equal employment opportunity and affirmative action issues impacting the agency. This committee will be advised by the AAO, who will serve as a non-voting member. The committee should strive to have its membership reflect a cross section of its agency, such as: entry and mid-level staff; section chiefs; supervisors; bureau directors; people of different genders; people with disabilities; various ethnicities; various generations; etc. The size of the committee can vary between 5 and 25 people. (*See Attachment #3- Sample Affirmative Action Advisory Committee (AAAC) By-Laws*)

**REQUIRED DOCUMENTATION:** A copy of the most recent Affirmative Action Advisory Committee meeting schedule and a copy of the minutes from the last advisory meeting.

## V. Provide a Survey of Employees' Disability Status

Pursuant to s. 230.04 (9r)(b), Wis. Stats., agencies have the responsibility to provide new and existing employees with the opportunity to self-identify as a person with a disability and to provide reasonable changes or accommodations within their work place. Agencies should conduct a disability self-identification and needs assessment survey for all current employees every two years, and it should collect information of disability status for each new employee. Information collected shall be entered into the payroll system.

A disability self-identification survey serves as a tracking tool to ensure that program services can be accessed equally by all employees in the workplace. Employee participation in the survey is voluntary. All information provided by employees must be kept confidential. A copy of the survey and a sample cover letter are included in this chapter. (*See Attachment #4 – Sample Disability Survey Cover Letter and Survey Form*)

Please note that if an agency creates a survey for its own use, the first three questions from the sample in *Attachment #4* are essential for the data entry into the payroll system.

After a survey is completed, an agency AAO or AAO-approved designee shall review the data to ensure that any accommodation needs of employees with disabilities are addressed.

**REQUIRED DOCUMENTATION:** A letter jointly signed by the HR Director and the AAO attesting that the agency will conduct a self-identification survey using the recommended Disability Self-Identification Survey Form or a similar form, establish a projected timetable for conducting the survey, and enter any updates to the payroll system. This letter shall also state that participation in the survey is voluntary and that all information will be kept confidential.

## VI. Disseminate EEO/AA Policies and Procedures throughout Agency

In order to ensure equal access to information, all EEO/AA policies and procedures must be readily available to all employee groups, including racial/ethnic minorities, women, and persons with disabilities. A notice delineating the responsibilities of the AA Office, the reasonable accommodations policy and internal discrimination and complaint procedure, along with details regarding access to the AA Office for employees and agency customers should be posted wherever and however necessary to provide employees notice of the policies and procedures.

**The following list includes a sample of recommended communication methods:**

1. Include the policies in agency/university policy manuals.
2. Publicize the policies in agency/university newsletters, magazines, etc.

3. Include the agency policies on all Intranet/Internet web sites and electronic bulletin boards.
4. Conduct special meetings with executive, management and supervisory personnel to explain the intent of the policies and individual responsibility for effective implementation, and to make clear the appointing authority's commitment.
5. Schedule special meetings with all other employees to discuss the policies and individual employee responsibility.
6. Discuss the policies thoroughly at employee orientation and during management/supervisory training programs.
7. Publish articles covering EEO/AA programs, EEO/AA progress and promotions or other achievements of racial/ethnic minorities and women employees, and employees with disabilities, in agency/university publications.
8. Communicate to employees the existence of the agency's EEO/AA programs and provide information which will enable them to be aware of and avail themselves of its benefits.
9. Communicate to prospective employees the existence of the EEO/AA programs, and provide information which will enable them to be aware of and avail themselves of its benefits.
10. Include the phrase "An Equal Employment/Affirmative Action Employer" in all employment advertisements.

**REQUIRED DOCUMENTATION:** A letter jointly signed by the HR Director and the AAO verifying that visible notices of the agency's Equal Employment Opportunity and Affirmative Action programs have been posted on bulletin boards and distributed electronically where feasible throughout the agency. A copy of this posting should accompany this letter.

## AFFIRMATIVE ACTION PLANS

A set of focused efforts and pro-active steps taken to increase access of historically underrepresented qualified applicants, and to address problems in an agency's EEO program.

### SEC. 800.070 The Affirmative Action Plan

Affirmative Action (AA) plans are the outline of specific, pro-active programs and steps to be taken over a pre-determined period of time to increase the access of historically underrepresented qualified applicants to an agency's workforce. AA Plans rely on statistical analysis data from underutilized job groups and classifications. AA Plans may also contain specific action steps to address problems that arise in an agency's Equal Employment Opportunity (EEO) program. Typical (EEO) problem areas include, but are not limited to: racial discrimination; sexual harassment; hostile work environment; retaliation; lack of mobility access for people with disabilities; etc. Affirmative Action plans cover three-year time periods, and are produced and administered by an agency's equal opportunity and/or affirmative action officer. Agencies with 30 or more permanent, classified employees will prepare AA Plans. Agencies with less than 30 permanent, classified employees will submit an EEO/AA Commitment Letter. (*See Attachment #5 – EEO/AA Commitment Letter*).

### SEC. 800.080 Preparation Needed To Produce The Affirmative Action Plan (Conduct a Workforce Analysis)

#### Agency Self-Assessment (Workforce Analysis) GUIDELINES

Agencies will conduct a self-assessment of their organization, determine any problem areas or deficiencies which exist, and develop programmatic goals and actions steps to address these problem areas or deficiencies. Self-analysis allows agencies to evaluate whether past discrimination and other issues have been corrected, and to track which current employment practices are succeeding.

**Charts and tools** to aid in conducting agency self-assessments are available as follows:

- Job Group / Underutilization Analysis table = *available on OSER's website*
- Wisc.Jobs Applicant Flow by Job Group = *produced from Wisc.Jobs website*
- Adverse Impact Analysis = (*See Attachment #6 Sample Adverse Impact Analysis Template*)
- Other Agency-Specific Documenting Tool of your choice

**Step 1:** Agency EEO/AA officers will use the Job Group and Underutilization Analysis table, along with at least one other chart or tool of their choice from the list above.

**Step 2:** Agency EEO/AA officers may consult one or more of the following staff groups for data and feedback during the Agency Self-Assessment process:

- Affirmative Action Advisory Committees (AAACs) = (*example: How's the work climate and morale in your unit?*)
- Human Resources = (*example: AA target group recruitment this year; retention issues; etc.*)
- Training and Employee Development staff = (*example: How many ethnic minority staff, women or people with disabilities have participated this year?*)
- Employee Assistance Program staff = (*example: Staff missing work to care for elders, experiencing retaliation from supvs?*)
- Supervisors = (*example: Have any harassment/discrimination issues arisen in your work units this year?*)
- Managers = (*example: Budgeting issues preventing allocation for improving accessibility for people with disabilities*)
- Others

**Step 3:** Agency EEO/AA officers may review one or more of the following areas in the Agency Self-Assessment process:

- Review job groups where underutilization exists and determine what steps can be taken to correct the underutilization.
- Review applicant flow statistics for past job openings. This review may reveal problem areas in recruitment, testing procedures, hiring, etc.
- Review recruitment files which include recruitment activity plans, interview questions, benchmarks and notes, employment justification letters, and a list of exam raters and interviewers.
- Review sources of applicants.
- Review employee development efforts for current employees.
- Review student intern programs such as participation in the Summer Affirmative Action Internship Program (SAAIP), or local agency intern program.
- Review personnel transaction statistics. If racial/ethnic minorities, women, and people with disabilities are receiving a lesser percentage of reclassifications and promotions, or a greater percentage of discharges and layoffs than might be expected from their percentages in the workforce, it might be an indication of problems which need attention.
- Review voluntary separations. If the review indicates a problem of retention of racial/ethnic minorities, women, and people with disabilities, programs to address retention should receive special attention.
- Review discrimination complaints and grievances in your agency over the past few years. Problems here might reveal the need for new or revised policies and procedures or supervisory training program.
- Review all permanent and probationary terminations of racial/ethnic minorities, women, and people with disabilities to the extent necessary to track any disparities.

**Step 4:** Provide a short narrative or summary of the findings in your agency's self-assessment.

## **SEC. 800.090 Writing And Developing the Affirmative Action Plan**

Based on your findings from the agency self-assessment (workforce analysis), you are ready to produce goals and action plans to address problem areas revealed in the analysis. The following items should be included in your Plan:

1. Narrative Summary  
Provide a summary in narrative form of your workforce analysis findings and their implications for your agency. It is not necessary to include the actual charts and analysis tables in the submission of the AA Plan. However as a best practice, be sure to keep your charts and analysis tables handy for further reference.
2. Description of Problem(s) to be Addressed  
Describe the underutilization or problem area you intend to address. Consider all barriers to equal opportunity. Use sufficient detail to convey the nature and scope of the problem.
3. Description of Efforts You Will Use to Address the Problems  
Tell, in general terms, what you will do to address the problem, why you will use this particular effort, and what you expect the result to be. The results should be specific and measureable. They should describe how things will be different after you have acted.
4. Goal(s) to be Achieved  
State the goal(s) clearly. Example could be:
  - Increase the recruitment of racial/ethnic minorities, women and people with disabilities
  - Add a mentoring component to our agency's SAAIP
  - Reduce the amount of harassment complaints
5. Action Steps/Responsible Staff or Office/Time Line/Evaluation  
List specific activities you will take to achieve your goal(s), and give the timeline (when it will start and when it will end) for each activity. What do you hope will be the outcome of your actions? To evaluate your action program, answer the question, "How will you know if your efforts have been successful?"
6. Internal Communication and Monitoring of AA Plan  
Describe how information about your AA Plan will be communicated throughout your agency. Also describe the procedure(s) that will be used to monitor your AA Plan.
7. Your Agency's EEO/AA Policy Statement
8. Signatures of your Appointing Authority and Affirmative Action or Equal Opportunity officer
9. Date of Submission of Plan to OSER Division of Affirmative Action

## **SEC. 800.100 AA Planning Template**

A sample AA Planning template is included in this chapter for reference and guidance purposes when writing and developing the AA Plan. (*See Attachment #7 Sample AA Planning Template*)

**(A WORD-format sample template is available on OSER's DAA website for agencies to use to craft their own AA Plan.)**

### **SEC. 800.110 Internal Communication And Monitoring Of EEO Programs And AA Plan**

**COMMUNICATION:** In order for the EEO Program and AA Plan to be effective, agency employees need to be aware of their existence and contents. Describe how information about the EEO Program and AA Plan will be disseminated. (Examples: via agency intranet and other social media; new employee orientation seminars; employee training sessions; brown bag lunch sessions; bulletin board display; hard copies available in HR Library and/or AA office; etc.)

**MONITORING:** The management of the EEO Program and progress toward achieving the goals of the AA Plan will need to be monitored and tracked. Describe the procedure to be used to monitor both the EEO program and progress toward attainment of AA goals. Include the role of the agency head and other top administrators in the monitoring process.

### **SEC. 800.120 Annual AA Plan Progress Report**

Each year, agencies will submit an annual AA Plan Progress Report to the Office of State Employment Relation's Division of Affirmative Action.

**The AA Plan Annual Progress Report** will document progress toward achieving affirmative action goals and addressing problems identified in an agency's workforce analysis. The Division of Affirmative Action will use this information to compose an annual report for the Governor on the status of Wisconsin's workforce, and to assist its statewide monitoring of agency affirmative action compliance.

### **SEC. 800.130 Administrative Information**

This is a new chapter issued in June 2014 for the *Wisconsin Human Resources Handbook*.

**Attachment #1 Samples of the Five Essential EEO Policies**

<b>1. Sample Policy Statement on Equal Employment Opportunity and Affirmative Action</b>
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This is to affirm [Agency Name's] policy of providing Equal Opportunity to all employees and applicants for employment in accordance with all applicable Equal Employment Opportunity/Affirmative Action laws, directives and regulations of Federal, State and Local governing bodies or agencies thereof.

Our organization will not discriminate against or harass any employee or applicant for employment because of race, color, creed, religion, national origin, sex, sexual orientation, disability, age, marital status, membership or activity in a local human rights commission, status with regard to public assistance, or any other protected class category covered under state, federal and local laws.

We will take Affirmative Action to ensure that all employment practices are free of such discrimination. Such employment practices include, but are not limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, selection, layoff, disciplinary action, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. We will provide reasonable accommodation to applicants and employees with disabilities. All employees are expected to perform their job responsibilities in a manner that supports equal employment opportunity for all.

I have appointed [Name] as EEO Professional to manage the Equal Employment Opportunity Program. This person's responsibilities will include monitoring all Equal Employment Opportunity activities and reporting the effectiveness of this Affirmative Action Program, as required by Federal, State and Local agencies. I will receive and review reports on the progress of the program. Any employee or applicant may inspect our Affirmative Action Program during normal business hours by contacting the EEO Professional.

If any employee or applicant for employment believes he or she has been treated in a way that violates this policy, they should contact either [EEO Professional's name] at [Work Address and Phone] or any other representative of management, including me. Responsible parties will investigate allegations of discrimination or harassment as confidentially and promptly as possible, and we will take appropriate action in response to these investigations.

## 2. Sample Balanced Panel Policy

<b>Policy Statement</b>	The Department of [Agency's Name] supports the use of balanced panels to ensure equal employment opportunity. The Department of [Agency's Name] believes that diverse, balanced panels help provide equal opportunity in the hiring and selection process. Balanced panels help minimize cultural, racial, gender and disability differences between interviewers and interviewees, eliminate bias relating to communication style and content, and provide a more complete and fair evaluation of responses and qualifications of all candidates.
<b>Panel Composition</b>	A balanced panel should be diversely composed with at least one person representing an affirmative action group, i.e. racial/ethnic minorities, women, or persons with disabilities. For example, a 3-member panel would include either one woman, or one racial/ethnic minority, or one person with a disability. At a minimum, all panels should be briefed about the State of Wisconsin's long-range objective of attaining a workforce that mirrors the general population of the overall labor force from which it hires and serves. In addition, each interview panel will have a goal of composing itself with at least one affirmative action group member.
<b>Balanced Panel Use</b>	[Name of Agency] will apply the standard of a balanced panel policy for all interview panels. Openness and inclusiveness will be pursued at all other levels of the hiring review and selection process including the following: examination rating panels, oral boards, search and screen committees, and hiring committees.
<b>Waiver Process</b>	<p>When an agency is not able to obtain a diverse, balanced panel after a series of good faith efforts, a waiver for approval must be requested from the agency's Affirmative Action Officer.</p> <p>To receive a waiver, the hiring supervisor must first document the efforts made to acquire target group members for the panel. If the Affirmative Action Officer provides additional suggestions for achieving a balanced panel, the hiring supervisor must follow through. If these efforts are still unsuccessful, a waiver must be granted. It is important that the hiring supervisor give adequate notice for this process before finalizing the panel, so that undue delay does not occur in implementing the panel.</p>
<b>Documentation</b>	It is required that hiring supervisors document the composition of all panels, including the efforts made to balance the panels. Such documentation shall be retained by Human Resource Office in the recruitment file.
<b>Responsible Officer and Monitoring</b>	<p>The agency's Affirmative Action Officer has primary responsibility for the oversight of the implementation of this policy for the hiring and selection process of all positions at the Department of [Agency's Name].</p> <p>Upon request, the Affirmative Action Officer will work with hiring supervisors and human resources during the selection process by identifying potential affirmative action group members, both internal and external, to serve on the panels.</p>



### 3. Sample Reasonable Accommodations Policy and Procedures

#### **General Purpose Statement**

It is the policy of the [Name of Agency] to provide reasonable accommodations for qualified persons with disabilities who are employees or applicants for employment. [Name of Agency] will adhere to all applicable federal and state laws, regulations, and guidelines with respect to providing reasonable accommodations as required to afford equal employment opportunity to qualified persons with disabilities. Reasonable accommodations will be provided in a timely and cost-effective manner. Employment opportunities shall not be denied because of the need to make reasonable accommodations to an individual's disability.

#### **Definitions**

##### **Reasonable Accommodation**

A reasonable accommodation is any modification or adjustment to a job, an employment practice, or the work environment that makes it possible for a qualified person with a disability to enjoy an equal employment opportunity. "The purpose of reasonable accommodation is to enable employees to adequately undertake job-related responsibilities." *Target Stores v. LIRC*, 217 Wis. 2d 1, 576 N.W.2d 545 (Ct. App. 1998).

A reasonable accommodation may include, but is not limited to:

- modifying written examinations
- making facilities accessible
- modifying work schedules
- restructuring jobs
- acquiring or modifying equipment or devices
- providing qualified readers or interpreters

The above list is from the EEOC's (Equal Employment Opportunity Commission) ADA (Americans with Disabilities Act) Technical Assistance Manual. For a complete discussion of "Reasonable Accommodations". *See*, 42 U.S.C. 12111 (9).

##### **Undue Hardship**

An "*undue hardship*" is an action that requires "significant difficulty or expense" in relation to the size of the employer, the resources available, and the nature of the operation. It includes any action that is:

- excessively costly
- extensive
- substantial
- disruptive
- or that would fundamentally alter the nature or operation of the business.

The above list is from the EEOC's ADA Technical Assistance Manual. For a complete discussion of "Undue Hardship". *See*, 42 U.S.C. 12111 (10).

Whether a particular accommodation will impose an undue hardship will always be determined on a case-by-case basis. An accommodation that poses an undue hardship for one employer at a particular time may not pose an undue hardship for another employer, or even for the same employer at another time.

If a particular accommodation would impose an undue hardship, the employer shall consider whether there are alternative accommodations that would not impose such hardship.

## Disability

Federal and state definitions of “disability” differ somewhat, and this discrepancy impacts the criteria by which reasonable accommodations are granted.

The **Federal** ADA (Americans with Disabilities Act) definition of disability, with respect to an individual, is:

“A physical or mental impairment that substantially limits one or more major life activities of such individual, or a record of such an impairment, or being regarded as having such an impairment.”  
42 U.S.C. 12102 (1)

Major Life Activities:

(A) In general

For purposes of [subsection (1) of 42.U.S.C. 12102] major life activities include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

(B) Major bodily functions

For purposes of [subsection (1) of 42.U.S.C. 12102] a major life activity also includes the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. 42 U.S.C. 12102 (2)

The **State** WFEA (Wisconsin Fair Employment Act) definition of disability is:

“A physical or mental impairment that makes achievement unusually difficult or limits the capacity to work, or a record of such an impairment, or is perceived as having such an impairment”.  
Section 111.32(8), Wis. Stats.

*In Wisconsin, the WFEA definition of “disability” takes precedence.*

## Procedures to Request Accommodations

All current employees will be made aware of their right to request reasonable accommodation through receipt of a copy of the Reasonable Accommodation Procedure. The procedure shall also be posted wherever and however necessary to provide employees notice of the policies and procedures (e.g., on the intranet, on bulletin boards, etc.) and is available from the Human Resources office. Employees will also be advised of their right to request reasonable accommodations at the time of the biennial survey to allow employees to self-identify as persons with disabilities.

All applicants for employment will be informed of the agency’s policy to provide reasonable accommodations for applicants with disabilities. Applicants may request accommodation for interviews by informing the agency when setting up the interview or contacting the agency’s interview coordinator.

Current employees may initiate a request for an accommodation verbally by talking to their supervisor or AA Officer but then must complete the request in writing using the “Disability Accommodation Request Form” (OSER-DAA-10). Current employees may request the form from the AA Officer or the Human Resources office. The form is also located on the OSER website.

### **A Decision Making Process**

The following factors will be considered when determining the reasonableness of the accommodation requested:

- Does the accommodation accomplish the desired result of allowing the individual to adequately undertake the job-related responsibilities?
- Will the accommodation adversely affect the productivity or work environment of other employees and the work unit?
- Is the applicant or employee otherwise qualified to perform the job functions?

The supervisor will proceed with provision of reasonable accommodations when the accommodation can be provided within the unit’s budget. While a supervisor can independently provide accommodations, the supervisor cannot deny a request for reasonable accommodations without further review.

When the first-line supervisor cannot provide the reasonable accommodations requested, the written request for reasonable accommodations accompanied by the supervisor’s recommendation is forwarded to the Human Resources Director. The Human Resources Director or designee will investigate the need and alternatives for meeting the need for reasonable accommodation. At a minimum, the employee requesting the accommodation and the employee’s supervisor shall be consulted.

Employees may provide or arrange for their own accommodations. In addition, the employee or applicant’s permission shall be sought before other rehabilitation professionals are consulted for help in determining the most appropriate accommodation. In all cases, the form for requesting reasonable accommodations will be completed and a copy filed with the Human Resources Director.

The supervisor will act upon the request within [number of days] working days or refer it to the Human Resources Director. The Human Resources Director or designee will reach a determination as quickly as possible, but the decision-making time shall not exceed 30 working days from receipt of the request from the supervisor.

The decision to approve or disapprove a request for accommodation will be in writing. The “Disability Accommodation Request Form” will be used for communication of the decision.

The supervisor and/or Human Resources Director may request verification of the disability of the person requesting accommodation in order to assist with determination of the ability of the person to adequately undertake the job-related responsibilities of the job with reasonable accommodation. The employee must bear the initial cost of verification. If the agency requests additional verification of the disability or the disability’s impact on job requirements, the agency must bear the cost.

The following are factors to be considered when deciding whether to request verification. The list is not intended to be all-inclusive:

- Is the employee known to have a disability?
- Does the applicant or employee have an observable disability?
- Does the request expand on an existing accommodation or previously provided accommodation for which verification was required?
- Does the request appear inappropriate?
- Does the agency require a medical coordinator to conduct the communications with the employee’s medical personnel for verification?
- Questions for medical personnel:

- How will the disability impact an employee's ability to adequately undertake the job-related responsibilities?
- What accommodation might assist the employee to adequately undertake the job-related responsibilities?

If it is determined that there are no reasonable accommodations available or appropriate for the employee, the Human Resources Director may look for an open position in the agency for a possible transfer. The employee must be qualified for the open position. This is not a legal right of an applicant. (*see*, s. 230.37(2), Wis. Stats.)

The supervisor and/or the Human Resources Director will consider the following conditions for requesting state funds earmarked for accommodations from the Department of Administration:

- Is the cost of the accommodation feasible within the [name of agency's] budget?
- If not, can approval be obtained from the Department of Administration to use funds that are statutorily reserved for reasonable accommodations? (Requests will be made to the Department of Administration to use state funds earmarked for accommodations only in cases of which the [name of agency] does not have available funds, and other possible sources such as the Department of Workforce Development (DWD), Division of Vocational Rehabilitation.
- Are there other more cost effective options that will allow the individual to adequately undertake the job-related responsibilities of the job?
- In general, the [name of agency] will purchase equipment only if it is determined that the use of the equipment is necessary in transaction of official business of the agency. The equipment may not be of a personal nature (eyeglasses, hearing aids, etc.) that the employee could reasonably be expected to provide.

The Human Resources Director will monitor the effectiveness of the accommodation. As necessary, interviews will be conducted with the employee and supervisor regarding the adequacy of the accommodation and to recommend any further adjustments that may be needed.

### **Appeal Process**

If an employee disagrees with a decision regarding his/her request for reasonable accommodation, he/she may appeal that decision through use of [name of agency's] internal discrimination complaint process. Employees and applicants may also seek appeal through Wisconsin's Equal Rights Division of the Department of Workforce Development, or the federal Equal Employment Opportunity Commission.

Job applicants do not have access to [name of agency's] internal complaint process.

### **Legal Reminder**

Failure to adhere to these reasonable accommodation policies and guidelines puts the [name of agency] at risk for disability claims and lawsuits.

#### 4. Sample Harassment Policy

##### Policy Statement

This policy statement defines the harassment policy of [Agency Name].

The most productive and satisfying work environment is one in which work is accomplished in a spirit of mutual trust and respect. Harassment is a form of discrimination that is offensive, impairs morale, undermines the integrity of employment relationships and causes serious harm to the productivity, efficiency and stability of our organization.

All employees have a right to work in an environment free from discrimination and harassing conduct, including sexual harassment. Harassment on the basis of an employee's **race, color, creed, ancestry, national origin, age (40 and over), disability, sex, arrest or conviction record, marital status, sexual orientation, membership in the military reserve or use or nonuse of lawful products away from work, or any other protected class category covered under state, federal and local laws**, is expressly prohibited under this policy. Harassment on any of these bases is also illegal under Section 111.31-111.39, Wisconsin Statutes.

This policy will be issued to all current employees and during orientation of new employees.

##### Definitions

In general, harassment means persistent and unwelcome conduct or actions on any of the bases underlined above. **Sexual** harassment is one type of harassment and includes unwelcome sexual advances, unwelcome physical contact of a sexual nature or unwelcome verbal or physical conduct of a sexual nature.

**Unwelcome verbal or physical conduct of a sexual nature includes, but is not limited to**

- The repeated making of unsolicited, inappropriate gestures or comments;
- The display of offensive sexually graphic materials not necessary for our work;

**Harassment on any basis (race, sex, age, disability, etc.) exists whenever**

- Submission to harassing conduct is made, either explicitly or implicitly, a term or condition of an individual's employment.
- Submission to or rejection of such conduct is used as the basis for an employment decision affecting an individual.
- The conduct interferes with an employee's work or creates an intimidating, hostile or offensive work environment.

##### Recognizing Harassment

Harassment may be subtle, manipulative and is not always evident. It does **not** refer to occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome and is personally offensive. All forms of gender harassment are covered. Men can be sexually harassed; men can harass men; Women can harass other women. Offenders can be managers, supervisors, co-workers, and non-employees such as clients or vendors.

**Some examples:**

**Verbal:** Jokes, insults and innuendoes (based on race, sex, age, disability); degrading sexual remarks, referring to someone as a stud, hunk or babe; whistling; cat calls; comments on a person's body or sex life; or pressures for sexual favors.

**Non-Verbal:** Gestures, staring, touching, hugging, patting, blocking a person's movement, standing too close, brushing against a person's body, or display of sexually suggestive or degrading pictures, racist or other derogatory cartoons or drawings.

### **Complaint Procedure**

Any employee who believes he or she is being harassed, or any employee, who becomes aware of harassment, should promptly notify his or her supervisor. If the employee believes that the supervisor is the harasser, the supervisor's supervisor should be notified. If an employee is uncomfortable discussing harassment with his or her supervisor, the employee should contact \_\_\_\_\_ of the personnel department. Information on your right to file a state or federal harassment complaint is also available from \_\_\_\_\_.

Upon notification of a harassment complaint, a confidential and impartial investigation will be promptly commenced and will include direct interviews with involved parties and where necessary with employees who may be witnesses or have knowledge of matters relating to the complaint. The parties of the complaint will be notified of the findings and their options.

### **Non-retaliation**

This policy also expressly prohibits retaliation of any kind against any employee bringing a complaint or assisting in the investigation of a complaint. Such employees may not be adversely affected in any manner related to their employment. Such retaliation is also illegal under s. 111.322 (2m), Wis. Stats.

### **Disciplinary Action**

The [Agency Name] views harassment and retaliation to be among the most serious breaches of work place behavior. Consequently, appropriate disciplinary or corrective action, ranging from a warning to termination, can be expected.

## 5. Sample Internal Discrimination and Harassment Complaint Procedures

### Background

It is the policy of the [Name of agency] that all forms of discrimination due to a person's race, age, ancestry, arrest or conviction record, color, creed, handicap or disability, marital status, national origin, race, religion, sex, sexual orientation, membership in any reserve component of the United States or state military forces, or any other protected class category covered under state, federal and local laws, are strictly prohibited. Part of the Department's effort to prevent discrimination in the workplace is found in the training it regularly provides supervisors and employees defining discrimination and the legal obligations all persons have to prevent this activity.

### Program Description

The Informal Employee Discrimination Complaint Procedure provides an informal mechanism for employees to raise concerns about discrimination, which may be occurring in the workplace. The program offers an expedited review of complaints or issues and seeks to resolve them to the satisfaction of the employee. The program is designed to encourage an internal and informal resolution of issues or complaints with the goal of avoiding the cost, delay and adversarial nature of the individual seeking alternative and more formal routes of relief.

### Informal Complaint Procedures:

1. Employees who believe they have been subject to discrimination or feel they are in a hostile work environment are encouraged to talk to the individual that is causing the issue or to contact the first line supervisor to help resolve the issue as soon as possible. If the issue or complaint involves the first line supervisor, employees should go to the next supervisory level.
2. An employee that does not feel comfortable approaching his or her first line supervisor or coworker, may contact the Agency's Affirmative Action Officer/EO Program Specialist (AAO/EO Specialist) to discuss their issue or informal complaint.
3. Once contacted regarding a complaint, the Affirmative Action Officer (AAO) and/or /Equal Opportunity Program Specialist (EO Specialist) will conduct a review of the allegations to clarify the nature of the alleged discrimination, hear the details of the complaint, and gain understanding of the relief desired by the employee. As part of the review the AAO/EO Specialist may contact the employee's supervisor or other employees to assist in resolving the complaint. All informal issues or complaints will be reviewed by the AAO/EO Specialist such that the confidentiality of the individual filing the complaint will be protected as much as possible.
4. The AAO/EO Specialist will complete the review and make recommendations to address the situation with the employee filing the issue or complaint and, if appropriate, others involved in the complaint or review.
5. At any time in the process, if the employee is not satisfied with the results of the informal review, he or she is entitled by law to file a formal complaint with the Department of Workforce Development (DWD) Equal Rights Division, the U.S. Equal Opportunities Commission or any other formal complaint mechanism. If the employee decides to file a formal complaint, any informal procedure in progress may or may not terminate, depending on the circumstances. If the employee files a formal complaint the AAO/EO Specialist will notify the Division of Legal Services Department Attorney of the attempts made to informally resolve the complaint.

## Attachment #2 Sample Hiring Review Checklist

Follow these hiring steps for all positions. OSER DAA will verify steps completed by file review during monitoring visit.

Agency	
Division/Bureau/Unit	
Job Title	
Job Group Name and Number	
Transfer	<input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, process ends.
Underutilized for Racial/Ethnic Minorities	<input type="checkbox"/> Yes <input type="checkbox"/> No
Underutilized for Women	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are there AA candidates on the register?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are there AA candidates on the cert list?	<input type="checkbox"/> Yes <input type="checkbox"/> No

Contacts	Name	Phone	Email
Manager/Supervisor			
Human Resources Staff (HR)			
Affirmative Action Officer/Designee (AAO)			

Date	Step	Hiring Review Process
	1	HR contacts AA Officer to discuss EEO/AA options for recruitment and examinations.
	2	AAO approves the Recruitment Activity Plan (RAP).
	3	HR notifies hiring individuals about AA goals. (e.g. bureau director, section chief, supervisor, interview question developers, and interview/rating panels)
	4	AAO reviews and approves proposed interview questions and benchmarks for evaluating candidates.
	5	AAO reviews and approves balanced interview panel. When the agency's attempts fail to develop a diverse, balanced panel, the AAO may issue a waiver for the selection process.
	6	AAO informs interview panel of the EEO/AA objectives.
	7	AAO reviews written hiring justification for non AA hires in underutilized positions. See OSER-DAA-11.

Recommended candidate's name \_\_\_\_\_

Is the recommended candidate a target group member?

☐ Yes, complete OSER-DAA-11 and place in recruitment file

☐ Yes, but target group candidate declines offer, complete OSER-DAA-11 and place in recruitment file.

☐ No, but no target group applicants on cert list, complete OSER-DAA-11 and place in recruitment file.

☐ No, complete OSER-DAA-11 and forward to AAO. Prior to making an offer, AAO must approve. If the AAO does not approve OSER-DAA-11, AAO will discuss with hiring authority. If still no consensus AAO will discuss with Appointing Authority at the agency (e.g. Secretary, Commissioner, Director etc).



### **Attachment #3- Sample Affirmative Action Advisory Committee (AAAC) By-Laws**

Department of XXXXXXXX  
Affirmative Action Advisory Committee  
Bylaws  
Adopted September 3, 2013

#### Article I - Purpose

The purpose of the Department of XXXXXXXX's Affirmative Action Advisory Committee is as follows:

1. Advise the agency head on issues that affect agency policy, practices and services related to affirmative action and equal employment opportunities.
2. Communicate concerns and/or recommend positive solutions to ensure equal opportunities for all agency staff to the agency affirmative action officer.
3. Recommend, develop, and/or sponsor activities that value diversity, encourage personal growth and supports a positive climate for diversity.
4. Assist the agency Affirmative Action Officer and act as a liaison between department staff and the Secretary's office.
5. Assist in development of the Affirmative Action Plan. Recommend strategies to address identified goals and define and monitor measures to ensure effectiveness.
6. Communicate the Affirmative Action Plan, goals, and activities to department staff.
7. Annually evaluate and report the effectiveness of the Affirmative Action Plan and activities to the agency head.

#### Article II - Membership

##### Section 1. Representation

The committee will consist of the department affirmative action officer (a nonvoting member) and a broad spectrum of department representation, which may include the following:

- a) each division
- b) management
- c) minority group employees
- d) employees with disabilities
- e) non-management

##### Section 2. Number of Members

At least one and not more than three voting members will be appointed to the Committee by each Division Administrator. Maximum of [ number of members ] members on the committee.

##### Section 3. Staggered Terms of Appointment

It is the intent of the agency head that committee members will be appointed to two-year staggered terms. New voting members will be appointed to a two-year term by each Division Administrator in May of each year, or as needed to replace a vacancy.

### Article III - Meeting Schedule

Committee meetings will be held at least nine times annually with times and location to be determined by the committee. Special meetings may be called by the chair with a minimum of two weeks notice.

### Article IV - Distribution of Minutes

The minutes will be made available electronically to all committee members prior to the next scheduled meeting once approved. They will be made available to the agency staff.

### Article V - Conduct of Meetings

#### Section 1. Quorum

In order to conduct a meeting, a quorum must be present. A quorum will be at least one-third of the total voting membership. Decisions for the committee may be made by a simple majority vote of the voting members present.

#### Section 2. Absences

Members shall notify the chair or vice-chair of the absences at least 24 hours prior to the scheduled meeting.

### Article VI - Officers

#### Section 1. Titles and Terms

The officer positions shall consist of a Chair, a Vice Chair, and a Secretary. Officers will be elected at the June meeting for a one-year term.

#### Section 2. Responsibilities of Chair

1. Coordinate the agenda for committee meetings.
2. Call and conduct committee meetings.
3. Appoint members to subcommittees. At various times, the committee may request other department employees to serve on subcommittees to offer expertise and guidance.
4. Delegate various responsibilities to committee members but retain overall responsibility.
5. Notify the affirmative action officer of vacancies on the committee and recommend new appointments.
6. Maintain committee records.
7. Prepare and submit to the agency head, an annual summary of committee work.

#### Section 3. Responsibilities of Vice Chair

1. In the absence of the chair, conduct committee meetings and carry out the other duties of the chair.
2. Assist the chair as requested to prepare summaries or correspondence.
3. Assist with subcommittee activities.
4. Review the Plan of Work and update when necessary.
5. Assist in the evaluation of the committee Affirmative Action Plan.

#### Section 4. Responsibilities of Secretary/Co-Secretary

1. With the assistance of the Executive Committee, draft and maintain Committee records including the minutes of meetings, the annual summary of Committee work and the statement of agency status.
2. Distribute agenda and minutes to all Committee members.

3. Assist the Chair as requested to prepare documents, summaries and correspondence.
4. Maintain the records of all subcommittee work products.
5. Monitor member attendance status and performance of ongoing responsibilities, report any concerns to the Chair

#### Section 5. Responsibilities of Committee Members

1. Attend all scheduled committee meetings. If unable to attend, notify committee chair or vice-chair as stated in Article V. When more than three unexcused absences occur in one year, evaluate time commitments and discuss with chair.
2. Provide service to the committee by participating in subcommittee activities. Be a responsible participant in committee discussions.

#### Section 6. Executive Committee

The executive committee, which includes the elected officers and at-large member, shall conduct business between regular meetings. In addition, the department Affirmative Action Officer will serve as a member of this leadership team.

#### Section 7. Fulfillment of Officer Responsibilities

A committee member who is elected to an officer position must be willing to fulfill this time commitment and attend meetings during their term. If any situation arises where this obligation cannot be fulfilled or if an officer misses more than two consecutive meetings, the officer should evaluate time commitments and discuss options with chair. If the chair resigns from office during his/her term, a special election will be held at the next scheduled meeting conducted by the vice-chairs.

### Article VII - Amendments

Section 1. Proposed amendments to these bylaws may be introduced by any committee member.

Section 2. Proposed amendments shall be in writing and submitted to the chair.

Section 3. Proposed amendments shall not be voted upon during the same meeting at which they are introduced.

Section 4. Proposed amendments shall require a majority vote of the full voting membership of the committee.

Section 5. Amendments shall become effective upon approval of the minutes.

### Article VIII - Ratification

Ratification of these bylaws shall be by a majority vote of the full voting membership of the committee.

**Attachment #4: Sample Disability Self-identification Survey COVER LETTER**

Dear Agency Employee,

Welcome to the Disability Self-Identification Survey. This survey is your opportunity to self-identify as a person having a disability. Your participation in this survey is voluntary, and all information collected will be kept confidential and maintained in separate files from your personnel records.

Your participation in this survey will assist us as an agency in the following ways:

- Identify individuals who may need assistance in emergency situations;
- Identify individuals who may need accommodations to enable them to adequately undertake their job-related responsibilities and to enjoy equal employment opportunities; and
- Evaluate the state progress in providing equal opportunity for persons with disabilities.

Pursuant to s. 230.04 (9r)(b), Wis. Stats., all agencies have the responsibility to provide new and existing employees with the opportunity to self-identify as a person with a disability and to provide reasonable changes or accommodations within their work place. Therefore agencies are required to conduct a disability self-identification and needs assessment survey for all current employees every two years.

We encourage all employees to fill out the survey so that we can ensure the delivery of accommodation services to employees with disabilities and capture reliable data for program improvements in the future.

Please return your completed survey to \_\_\_\_\_, AA Officer.

Thank you very much!

**Attachment #4: Sample Disability Self-identification SURVEY FORM**

CONFIDENTIAL DISABILITY SELF-IDENTIFICATION SURVEY

Employee's Name \_\_\_\_\_

Department/Division \_\_\_\_\_

- |   |     |    |
|---|-----|----|
| 1. Do you have a mental or physical impairment?   | Yes | No |
| 2. Does your impairment result in substantial functional limitations in one or more of the following areas of major life activities: self-care; receptive and expressive language, learning, mobility, capacity for independent living, or economic self-sufficiency? | Yes | No |
| 3. Will the disability continue indefinitely?   | Yes | No |
| 4. Do you need any accommodations to enable you to perform your job?  | Yes | No |
| 5. Are you currently receiving reasonable accommodations to enable you to adequately undertake your job-related responsibilities?   | Yes | No |
| 6. Will you need any special help in the event of an emergency?   | Yes | No |
| 7. Do you have suggestions for improving our agency's accessibility to persons with disabilities?   |     |    |

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Please return the completed survey to the AA Officer.

**Attachment #5 Sample EEO/AA Commitment Letter for Agencies with less than 30 permanent, classified employees.**

Date

Greg Gracz, Director  
Office of State Employment Relations  
101 East Wilson Street, 4<sup>th</sup> Floor  
P.O. Box 7855  
Madison, Wisconsin 53707-7855

Re: Commitment letter that adheres to the tenets of the affirmative action planning standards for 2014-2017

Dear Mr. Gracz:

Consistent with Wisconsin's leadership and progress in achieving and assuring diversity in the work place, I am firmly committed to meeting the state laws and policies, as well as federal laws, for affirmative action and equal opportunity. The Department of [insert name] recognizes that equal employment opportunity is a legal, organizational, and economic necessity in order to maximize the quality and diversity of the state's workforce. This commitment is extended to all job applicants and employees in every type of position including unclassified, classified, project, limited term, volunteers, interns and work study personnel.

The Department of [insert name] has fewer than 30 permanent classified employees, and is not required to submit a full affirmative action plan. Being an integral part of the State of Wisconsin as an employer, we intend to apply affirmative action principles to all employment policies, procedures and programs, wherever it's appropriate, to ensure equal opportunity and freedom from discrimination. We are committed through our actions which include addressing all issues regarding affirmative action goals, conducting targeted recruitments for underutilized positions, ensuring managers and supervisors receive EEO/AA training on a biennial basis, having balanced interview panels where appropriate, participating in the W-2 program, creating SAAIP (internship) opportunities, monitoring for discriminatory practices, investigating discrimination complaints, applying alternative work pattern policy, informing employees regarding EEO/AA policies and procedures, and engaging in EEO/AA best practices.

We look forward to working with the Office of State Employment Relations Division of Affirmative Action to implement our policies and programs in efforts to correct the present effects of past discrimination and to build a motivated and skilled work force that is reflective of the population we serve.

Sincerely,

Agency Head Name  
Agency Head Title

cc: Name, Affirmative Action Officer

## **Attachment #6    Sample Adverse Impact Analysis Template**

### **Adverse Impact Analysis Instructions**

Use the following steps to determine adverse impact within your agency:

- 1. Select the target area/population for analysis** e.g. Managers in the Department of Administration.
- 2. Select the topic of interest** (with a specified time period) e.g. Training in fiscal year 2014.
  - Determine if the topic of interest for the analysis will affect employees positively or negatively.
  - A transaction is considered **positive** if it affects an employee positively, such as training, promotion, reclassification or hire. Be sure to use the adverse impact analysis table for the positive transaction.
  - A transaction is **negative** if it affects an employee negatively, such as discharge, layoff, demotion or termination. Be sure to use the adverse impact analysis table for the negative transaction.
- 3. Total populations** for the two groups selected for the analysis e.g. total numbers of minority and white employees who are managers in the department.
- 4. Transaction** numbers for the selected two groups in the area e.g. the numbers of minority and white managers in the department who took the training in FY 2014.
- 5. Review the results of the adverse impact analysis.** The template has built-in formulas for the remaining process, which automatically calculate the transaction rate, the impact ratio and the final result of the adverse impact analysis.

Notes:

- Examples of both a positive and negative adverse impact analysis are included.
- A usable adverse impact analysis table is included on the excel spreadsheet located on the OSER DAA website.
- The adverse impact analysis calculations will be performed automatically in the blank excel template. All you need to do is enter the figures. There is an adverse impact analysis table for positive transactions, and another one for negative transactions.

### Example of an Adverse Impact Analysis for a Positive Transaction

**Managers in the department** (Target Area or Population for analysis)

**Managers' Training in Fiscal Year 2014** (Specific Topic to Analyze)

	R/E Minorities	Whites	Females	Males
Total Population (e.g. total employees)	20	40	27	33
Transaction # (e.g. Training number)	4	12	7	9
Transaction Rate (e.g. Training Rate)	20%	30%	26%	27%
Impact Ratio	66.7%		95%	
Adverse Impact? (80% Rule)	Yes because impact ratio < 80%		No because impact ratio >80%	

### Example of an Adverse Impact Analysis for a Negative Transaction

**Bureau XYZ** (Target Area or Population for analysis)

**Terminations in Bureau XYZ in Fiscal Year 2014** (Specific Topic to Analyze)

	R/E Minorities	Whites	Females	Males
Total Population (e.g. total employees)	14	50	27	33
Transaction # (e.g. Termination number)	4	12	9	7
Transaction Rate (e.g. Termination Rate)	28.6%	24.0%	33.3%	21.2%
Impact Ratio	84.0%		63.6%	
Adverse Impact? (80% Rule)	No because impact ratio > 80%		Yes because impact ratio <80%	



**Attachment #7 Sample AA Planning Template**

# State of Wisconsin

## Agency

address

# Affirmative Action Plan

For the period of

**July 1, 2014 – June 30, 2017**

*\* We have reviewed and firmly endorsed the content of this affirmative action plan. Being an integral part of the State of Wisconsin as an employer, we are committed to ensuring equal opportunity, freedom from discrimination, and affirmative action in compliance with state laws and policies as well as federal laws. This means that affirmative action/equal opportunity principles will be applied to all employment policies, procedures and programs, wherever it's appropriate. This is consistent with Wisconsin's leadership and progress in achieving and assuring diversity in the work place.*

### Appointing Authority

Full Name

\* Signature\*

Title

Email

### Affirmative Action Officer

Full Name

\* Signature\*

Phone Email

**Date of Submission to OSER DAA**

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# I. Agency EEO/AA Policy Statement

( Example )

This is to affirm [Agency Name's] policy of providing Equal Opportunity to all employees and applicants for employment in accordance with all applicable Equal Employment Opportunity/Affirmative Action laws, directives and regulations of Federal, State and Local governing bodies or agencies thereof.

Our organization will not discriminate against or harass any employee or applicant for employment because of race, color, creed, religion, national origin, sex, sexual orientation, disability, age, marital status, membership or activity in a local human rights commission, status with regard to public assistance, or any other protected class category covered under state, federal and local laws.

We will take Affirmative Action to ensure that all employment practices are free of such discrimination. Such employment practices include, but are not limited to, the following: hiring, upgrading, demotion, transfer, recruitment or recruitment advertising, selection, layoff, disciplinary action, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. We will provide reasonable accommodation to applicants and employees with disabilities. All employees are expected to perform their job responsibilities in a manner that supports equal employment opportunity for all.

I have appointed [Name] as EEO Professional to manage the Equal Employment Opportunity Program. This person's responsibilities will include monitoring all Equal Employment Opportunity activities and reporting the effectiveness of this Affirmative Action Program, as required by Federal, State and Local agencies. I will receive and review reports on the progress of the program. Any employee or applicant may inspect our Affirmative Action Program during normal business hours by contacting the EEO Professional.

If any employee or applicant for employment believes he or she has been treated in a way that violates this policy, they should contact either [EEO Professional's name] at [Work Address and Phone] or any other representative of management, including me. Responsible parties will investigate allegations of discrimination or harassment as confidentially and promptly as possible, and we will take appropriate action in response to these investigations.

## **II. Agency Self-Assessment Workforce Analysis**

### **Narrative Summary of Workforce Analysis (findings)**

Provide a summary of your findings based on:

- Your analysis of the Job Group and Underutilization tables;
- any other analysis tools you used;
- your review of the various areas of your agency;
- and your consultations with other agency employees and management.

### III. AA Goals and Action Plans to Address Problem Areas

**Description of Problem:** describe the underutilization and/or problem you intend to address. (*EXAMPLE*)

Difficulty recruiting racial/ethnic minorities, women, and people with disabilities to our agency. The percentage of minorities, women and people with disabilities, particularly among the millennial generation, is low with every recruitment.

**Description of Effort to Address Problem:** what you will do to address the problem, why you will use this particular effort, and what you expect the result to be. (*EXAMPLE*)

Conduct more in-person recruitment efforts, because studies show some people view such efforts as more authentic, and are thus more likely to respond positively. As a result of this strategy, we expect our recruitment numbers to increase.

**Action Steps/Responsible Staff or Office/Time Line/Evaluation** (EXAMPLE)

**Goal:** To increase recruitment of racial/ethnic minorities, women and people with disabilities.

<b>Action Steps</b>	<b>Responsible Staff/Office</b>	<b>Time Line</b>	<b>Evaluation: (How will you know if your efforts have been successful?)</b>
Develop a Recruitment Activity Plan (RAP) that adds new outreach methods to previous recruitments methods, such as: community organization visits; guest appearances on local media interview shows; etc.	HR specialist AAO	Jun 1 - 14, 2013	The new RAP is compared with the previous RAP and will list the new outreach methods.
Conduct recruitment efforts listed in the RAP. Track contacts made, list and complete any follow-up activities generated from contacts.	HR specialist Staff from hiring bureau AAO	Jun 15 - Jul 31, 2013	All the outreach efforts on the RAP should be checked off as completed. New contacts should appear in an agency networking/contact list and/or database.
Track the applicant flow charts on Wisc.Jobs, along with any personal antidotes that surface.	HR specialist AAO	Aug 15 - 28, 2013	A larger number of minorities, women and/or people with disabilities should be present.

## **IV. Internal Communication of AA Plan**

Describe how information about your AA Plan will be communicated throughout your agency.

### **Internal Monitoring of AA Plan**

Describe the procedure(s) to be used to monitor your agency's AA Plan.

The following list includes some sample monitoring activities. Evaluate one or more of the following within your agency:

- EEO/AA training or review at staff meetings
- Supervisors' EEO/AA performance
- Hiring managers participation in diversity recruitment
- A mentoring program or a buddy system for AA group members
- Participation in training programs to ensure equal access for all AA group members
- Exit interview programs
- Tracking and analysis of retention issues, e.g. upward mobility for AA group members
- Disability surveys
- The accessibility of programs, services and facilities to ensure access for persons with disabilities
- Participation in SAAIP or other internship programs
- Tracking and analysis of discrimination and harassment complaints and their resolutions
- Other activities: (Please elaborate)